

(The Clerk resumed calling the roll.)

## § 16. In the Committee of the Whole

In the Committee of the Whole a point of order that a quorum is not present is in order, but an objection to a vote on the ground that a quorum is not present is not in order.<sup>(10)</sup> A recorded vote in the Committee of the Whole may be ordered by 25 or more Members.<sup>(11)</sup>

Provisions of the rules relating to quorum requirements in the Committee of the Whole adopted in the 93d Congress on Apr. 9, 1974, will be discussed in detail in supplements to this edition. Briefly, these provisions authorize the Chairman of the Committee of the Whole, at any time during a quorum call, to declare that a quorum is constituted when he determines that a quorum is present. Proceedings under the call, in such instances, are considered vacated. The new rule also incorporates the preexisting precedents to the effect that a quorum is not required in the Committee

of the Whole for agreement to a motion that the Committee rise. Furthermore, it is stated that a point of order that a quorum is not present may not be made or entertained after the presence of a quorum is once ascertained during the period after a Committee of the Whole has risen after completing consideration of a bill or resolution and before the Chairman has reported the measure back to the House.

Rule XXIII clause 2 was also amended in the 95th<sup>(12)</sup> and 96th<sup>(13)</sup> Congresses to limit the right to make a point of no quorum during general debate in Committee of the Whole. Under the later practice, a point of no quorum is a matter of right each day only once during five-minute debate, and then again only when a question is put on an amendment or motion. In the 97th<sup>(1)</sup> Congress, the rule was further amended to allow the Chairman the discretion whether or not to entertain a point of order of no quorum during general debate only.

10. § 16.1 and § 16.4, *infra*.

11. See Rule XXIII clause 2(b), *House Rules and Manual* (1979).

See also § 7, *supra*, for a discussion of the call in the Committee.

12. H. Res. 5, 123 CONG. REC. 53-70, 95th Cong. 1st Sess., Jan. 4, 1977.

13. H. Res. 5, 125 CONG. REC. —, 96th Cong. 1st Sess., Jan. 15, 1979.

1. H. Res. 5, 127 CONG. REC. —, 97th Cong. 1st Sess., Jan. 5, 1981.

*When in Order***§ 16.1 In the Committee of the Whole, a point of order that a quorum is not present will lie; but objection will not lie to a vote on the ground that a quorum is not present.**

On Dec. 17, 1970,<sup>(2)</sup> during consideration of H.R. 19446, the Emergency School Aid Act of 1970 Chairman James C. Corman, of California, after entertaining a point of order that a quorum was not present refused to entertain an objection to a vote on the ground that a quorum was not present.

MR. [ROMAN C.] PUCINSKI [of Illinois]: Mr. Chairman, I move that all debate on this amendment end in the next 3 minutes.

MR. [JAMES A.] HALEY [of Florida]: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. HALEY: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. [WILLIAM L.] CLAY [of Missouri]: Mr. Chairman, I move that the committee do now rise.

THE CHAIRMAN: The question is on the motion of the gentleman from Missouri.

The question was taken; and the Chairman announced that the ayes had it.

2. 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess.

MR. PUCINSKI: Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE CHAIRMAN: The gentleman's point of order is not in order in the Committee of the Whole.

MR. PUCINSKI: Mr. Chairman, I demand tellers.

THE CHAIRMAN: Tellers are demanded. Those in favor of taking the vote on the motion to rise by tellers will rise and remain standing until counted.

An insufficient number have arisen. Tellers are not ordered.

MR. PUCINSKI: Mr. Chairman, I make a point of order against that ruling in that a quorum is not present. The Chair ruled there is an insufficient number that have arisen for tellers. I challenge that ruling on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will advise the gentleman from Illinois again that his point of order is not in order.

The motion to rise was agreed to.

*Automatic Roll Call***§ 16.2 Although a point of no quorum raised between a division and a teller vote is in order in the Committee of the Whole, it does not bring about an automatic call even though a quorum is not present.**

On Aug. 21, 1950,<sup>(3)</sup> during consideration in the Committee of the

3. 96 CONG. REC. 12960, 12961, 81st Cong. 2d Sess.

Whole of H.R. 9313, a bill to amend the Agricultural Act of 1949, an objection to the vote was raised.

THE CHAIRMAN: <sup>(4)</sup> The question is on the amendment offered by the gentleman from Georgia [Mr. Davis].

The question was taken; and on a division (demanded by Mr. Davis of Georgia) there were ayes 21, noes 28.

MR. [JAMES C.] DAVIS of Georgia: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

MR. DAVIS of Georgia: Mr. Chairman, I demand tellers.

THE CHAIRMAN: The gentleman withdraws his point of order that a quorum is not present?

MR. DAVIS of Georgia: I do not withdraw it. A parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Was my point of order that a quorum is not present in order?

THE CHAIRMAN: The gentleman can make the point of order that a quorum is not present.

MR. DAVIS of Georgia: Mr. Chairman, I make that point of order, then.

THE CHAIRMAN: The Chair will count.

MR. DAVIS of Georgia: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. DAVIS of Georgia: Mr. Chairman, if I insist on the point of order, will I then have an opportunity to have a roll-call vote on this question?

THE CHAIRMAN: Not in Committee of the Whole, no.

**§ 16.3 An objection to a division vote on the motion to rise decided in the negative in the Committee of the Whole on the ground that a quorum is not present does not precipitate an automatic roll call on the pending question but merely requires the Chair to count the Committee for a quorum.**

On May 26, 1955,<sup>(5)</sup> the Chairman of the Committee of the Whole, Prince H. Preston, Jr., of Georgia, made a ruling regarding an objection to a vote.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, I offer a privileged motion.

The Clerk read as follows:

Mr. H. Carl Andersen moves that the Committee do now rise.

THE CHAIRMAN: The question is on the motion.

The question was taken; and on a division (demanded by Mr. H. Carl Andersen) there were—ayes 7, noes 56.

So the motion was rejected.

MR. H. CARL ANDERSEN: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

THE CHAIRMAN: The Chair will state that that does not bring on an automatic roll call. The Chair will count to determine whether a quorum is

4. Carl T. Durham (N.C.).

5. 101 CONG. REC. 7149, 84th Cong. 1st Sess.

present. [After counting.] One hundred and eleven Members are present, a quorum.

**§ 16.4 Because the provisions of Rule XV clause 4,<sup>(6)</sup> which permit a Member to object to a vote where a quorum is not present, are applicable only in the House, an automatic roll call is not in order in the Committee of the Whole.**

On June 7, 1973,<sup>(7)</sup> during consideration of H.R. 7446, to establish the American Revolution Bicentennial Administration, Chairman Henry B. Gonzalez, of Texas, clarified the procedures admissible in the Committee of the Whole.<sup>(8)</sup>

THE CHAIRMAN: The question is on the amendments offered by the gentleman from Pennsylvania (Mr. Williams).

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. [LAWRENCE G.] WILLIAMS: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: A recorded vote has been demanded.

MR. WILLIAMS: Mr. Chairman, I withdraw that. I make the point of

order that a quorum is not present, and I object to the vote on that basis.

THE CHAIRMAN: The Chair advises the gentleman from Pennsylvania that that procedure is not in order in the Committee of the Whole.

MR. WILLIAMS: Mr. Chairman, I make a point of order. I object to the vote on the ground that a quorum is not present, and I request a rollcall vote.

I can object to the vote on the grounds that a quorum is not present, and insist on my point of order.

THE CHAIRMAN: Not in the Committee of the Whole, the Chair wishes to advise.

The gentleman may be advised that he may wish to raise a point of order that a quorum is not present.

MR. WILLIAMS: That is exactly what I have done.

THE CHAIRMAN: But the gentleman must be advised that during proceedings of the Committee of the Whole, an automatic vote is not a proper request.

MR. WILLIAMS: Mr. Chairman, I make a point of order against the vote previously taken on the basis that a quorum is not present.

THE CHAIRMAN: The gentleman from Pennsylvania raises the point of order that a quorum is not present. Is that what the gentleman wishes?

MR. WILLIAMS: No. I demand a recorded vote.

THE CHAIRMAN: The Chair will remind the gentleman from Pennsylvania that that demand has been withdrawn.

MR. WILLIAMS: I did withdraw it before. I am now requesting a recorded vote.

6. *House Rules and Manual* §773 (1979).

7. 119 CONG. REC. 18521, 93d Cong. 1st Sess.

8. See also 117 CONG. REC. 40054, 92d Cong. 1st Sess., Nov. 9, 1971; and 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

THE CHAIRMAN: The gentleman from Pennsylvania now demands a recorded vote on his amendments.

A recorded vote was refused.

So the amendments were rejected.

### ***Pending Demand for Tellers***

#### **§ 16.5 A point of no quorum in the Committee of the Whole is in order while a demand for tellers is pending.**

On Mar. 23, 1970,<sup>(9)</sup> Chairman William J. B. Dorn, of South Carolina, ordered a quorum call in response to a point of no quorum.

THE CHAIRMAN: The question is on the motion offered by the gentleman from New York (Mr. Koch).

The question was taken; and on a division (demanded by Mr. Koch), there were—ayes 10, noes 50.

MR. [EDWARD I.] KOCH: Mr. Chairman, I demand tellers. Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count.

Evidently a quorum is not present.

The Clerk will call the roll. . . .

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. HÉBERT: Mr. Chairman, is it in order to call for a quorum when a call for a teller vote is asked for and should be in progress at that moment—you cannot interrupt a vote.

THE CHAIRMAN: The Chair will state that the gentleman from New York made the point that a quorum was not present.

MR. HÉBERT: No, no—the Record will show that he asked for a teller vote and then asked for a quorum.

THE CHAIRMAN: It is the understanding of the Chair that the gentleman asked for a teller vote and then made the point of order that a quorum was not present.

MR. HÉBERT: That is it—when he asked for a teller vote, he asked for a vote to be taken and that vote comes automatically. Having made that motion, he cannot get the other.

THE CHAIRMAN: The Chair will advise the distinguished gentleman from Louisiana that the Committee cannot do business without a quorum, and since it has been established a quorum is not present, the Chair has directed the Clerk to call the roll.

### ***Pending Motion to Rise***

#### **§ 16.6 A point of order of no quorum is not in order in Committee of the Whole where there is pending a motion that the Committee rise, since the motion to rise does not require a quorum for adoption.**

On May 31, 1972,<sup>(10)</sup> during consideration of H.R. 13918, a bill to provide improved financing for the Corporation of Public Broad-

9. 116 CONG. REC. 8562, 8563, 91st Cong. 2d Sess.

10. 118 CONG. REC. 19353, 92d Cong. 2d Sess.

casting, in the Committee of the Whole, Chairman Robert N. Giaimo, of Connecticut, ruled out of order a point of no quorum while a motion to rise was pending.

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I move that the Committee do now rise.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, on that motion I demand tellers.

THE CHAIRMAN: The gentleman from Iowa is demanding tellers on the motion that the Committee do now rise?

MR. GROSS: That is correct, Mr. Chairman.

THE CHAIRMAN: The Chair will state to the gentleman that the Chair has not yet put the motion.

The question is on the motion offered by the gentleman from West Virginia that the Committee do now rise.

The question was taken; and the Chairman announced that the ayes appeared to have it.

MR. GROSS: Mr. Chairman, on that I demand tellers.

Tellers were refused.

MR. GROSS: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will advise the gentleman from Iowa that a quorum is not needed upon the motion that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Boggs) resumed the chair.

### **order pending a tentative affirmative vote that the Committee of the Whole rise.**

On Mar. 9, 1936,<sup>(11)</sup> during consideration of H.R. 11563, the District of Columbia rent commission bill, William B. Umstead, of North Carolina, Chairman of the Committee of the Whole, sustained a point of order that a point of no quorum was not in order.

MR. [THOMAS L.] BLANTON [of Texas] (interrupting the reading of the bill): Mr. Chairman, I move that the Committee do now rise.

The question was taken.

MR. BLANTON: Mr. Chairman, I ask for a division.

The Committee divided; and there were—ayes 40, noes 33.

MR. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Chairman, I make the point of order there is not a quorum present.

THE CHAIRMAN: The Chair will count.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. TABER: Mr. Chairman, I make the point of order that a point of no quorum is not in order after the Committee has determined to rise.

THE CHAIRMAN: The point of order is sustained. The vote had already been announced.

MR. ELLENBOGEN: Mr. Chairman, I ask for tellers.

### **§ 16.7 A point of order that no quorum is present is not in**

11. 80 CONG. REC. 3459, 74th Cong. 2d Sess.

MR. BLANTON: Mr. Chairman, I make the point of order that the request comes too late, business having intervened.

THE CHAIRMAN: The point of order is overruled. The question is on ordering tellers.

Tellers were ordered, and the Chair appointed as tellers Mrs. Norton and Mr. Blanton.

The Committee again divided; and there were—ayes 30, noes 61.

MR. BLANTON: Mr. Chairman, I object to the vote on the ground there is not a quorum present.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and fourteen Members are present, a quorum.

The Clerk continued reading the bill.

*Parliamentarian's Note:* At the point that the point of no quorum was first made, the Committee had determined to rise, on which vote a quorum is not required.

### ***Proceedings Following a Point of No Quorum***

**§ 16.8 Where a point of order is made that a quorum is not present in the Committee of the Whole and the Chair announces that a quorum is not present, a motion that the Committee rise is in order before the Chair directs the Clerk to call the roll as provided in Rule XXIII clause 2;<sup>(12)</sup> if the vote on the mo-**

12. See *House Rules and Manual* § 863 (1979).

**tion discloses a quorum and the motion is lost, the Committee continues with its business.**

On May 26, 1966,<sup>(13)</sup> during consideration of H.R. 13712, the fair labor standards amendments of 1966, the Committee of the Whole resumed business after a teller vote.<sup>(14)</sup>

MR. [LESLIE C.] ARENDS [of Illinois]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:<sup>(15)</sup> The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Chairman, I move that the Committee do now rise. On that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Albert and Mr. Arends.

The Committee divided, and the tellers reported and there were—ayes 3, noes 108.

So the motion was rejected.

THE CHAIRMAN: A quorum is present.

The gentleman from Illinois [Mr. Collier] is recognized.

**§ 16.9 While an automatic roll call may not be taken in the Committee of the Whole, a**

13. 112 CONG. REC. 11621, 89th Cong. 2d Sess.

14. See also 74 CONG. REC. 886, 71st Cong. 3d Sess., Dec. 16, 1930.

15. Charles M. Price (Ill.).

**Member may make a point of order that a quorum is not present, as evidenced by the announced division or teller vote on the pending question; but if the Chair counts a quorum, business may proceed.**

On Feb. 8, 1950,<sup>(16)</sup> during consideration of H.R. 2945, to adjust postal rates, the Chairman of the Committee of the Whole, Chet Holifield, of California, made a ruling regarding the need for a quorum.

THE CHAIRMAN: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Hagen) there were—ayes 76, noes 21.

MR. [HAROLD C.] HAGEN [of Minnesota]: Mr. Chairman, I object to the vote on the ground that a quorum is not present.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. RANKIN: A quorum is not necessary to vote in the Committee of the Whole and a vote in the Committee of the Whole cannot be forced by a point of no quorum.

THE CHAIRMAN: The Chair will state to the gentleman from Mississippi that the rules require a quorum of a hundred in the Committee of the Whole.

MR. RANKIN: But the gentleman objected to the vote on the ground there was no quorum present.

MR. HAGEN: There was not a quorum present as disclosed by the announcement of the vote.

MR. RANKIN: It is all right to make a point of no quorum; that is one thing; but to object to the vote on the ground that a quorum is not present is something else.

THE CHAIRMAN: The Chair will count. [After counting.] One hundred and sixty-six Members are present, a quorum.

So the amendment was agreed to.

**§ 16.10 After a point of order that a quorum is not present in the Committee of the Whole has been made and a motion to rise is rejected (a quorum failing to respond on that vote), the Chair directs the Clerk to call the roll to obtain a quorum.**

On July 15, 1942,<sup>(17)</sup> Wright Patman, of Texas, Chairman of the Committee of the Whole, directed the Clerk to call the roll.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] makes a point of order that a quorum is not present. The Chair will count. [After counting.] Sixty-five Members are present, not a quorum.

MR. [JOHN E.] RANKIN of Mississippi: Mr. Chairman, I move that the Committee do now rise, and on that I demand tellers.

16. 96 CONG. REC. 1678, 1679, 81st Cong. 2d Sess.

17. 88 CONG. REC. 6214, 6215, 77th Cong. 2d Sess.



Tellers were ordered, and the Chair appointed as tellers Mr. Rankin of Mississippi and Mr. Kinzer.

The Committee divided; and the tellers reported that there were—ayes 13, noes 33.

THE CHAIRMAN: So the Committee refuses to rise. A quorum is not present. The Clerk will call the roll.

**§ 16.11 Where the Committee of the Whole rises and the Chairman thereof reports to the House that, pursuant to Rule XXIII clause 2,<sup>(18)</sup> he caused the roll to be called in Committee to establish the presence of a quorum, the House automatically resolves back into Committee.**

On Apr. 6, 1967,<sup>(19)</sup> the House, after receiving a report from the Chairman of the Committee of the Whole, resolved itself back into the Committee.<sup>(20)</sup>

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN:<sup>(21)</sup> The Chair will count. [After counting.] A quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

18. See *House Rules and Manual* § 863 (1979).

19. 113 CONG. REC. 8600, 90th Cong. 1st Sess.

20. See also 115 CONG. REC. 9705, 91st Cong. 1st Sess., Apr. 21, 1969, for another illustration of this principle.

21. John H. Dent (Pa.).

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Dent, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 2512, and finding itself without a quorum, he had directed the roll to be called, when 376 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

**§ 16.12 Where a point of no quorum is made in the Committee of the Whole and the roll is called while a demand for a teller vote on an amendment is pending, the question of ordering tellers is put immediately after the Committee resumes its sitting, and a division vote taken prior to the demand for tellers is not final.**

On May 10, 1946,<sup>(22)</sup> the Chairman of the Committee of the Whole, Jere Cooper, of Tennessee, made a ruling regarding the finality of a division.

THE CHAIRMAN: The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. Rooney) there were—ayes 41, noes 29.

MR. [JED] JOHNSON of Oklahoma: Mr. Chairman, I demand tellers.

22. 92 CONG. REC. 4840, 79th Cong. 2d Sess.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, I make the point of order that a quorum is not present.

THE CHAIRMAN: The Chair will count. [After counting.] Eighty-seven Members are present, not a quorum.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cooper, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 6335, and finding itself without a quorum, he had directed the roll to be called, when 313 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

THE SPEAKER: <sup>(23)</sup> The Committee will resume its sitting.

THE CHAIRMAN: The gentleman from Oklahoma [Mr. Johnson] demands tellers on the amendment offered by the gentleman from Idaho [Mr. Dworshak] to the amendment offered by the gentleman from Utah [Mr. Robertson].

MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. GRANGER: As I understood the situation when the quorum was called, the Chair had already announced that the amendment offered by the gentleman from Idaho to the amendment had been agreed to; and the request comes too late.

THE CHAIRMAN: The Chair had announced that on a division the amendment to the amendment had been agreed to. Thereupon, the gentleman from Oklahoma [Mr. Johnson] demanded tellers. At that point a point of order was made that a quorum was not present.

The gentleman's demand for tellers is now pending.

## § 17. Absence of Quorum in Standing Committee as Bar to Floor Consideration or Other Subsequent Proceedings

According to Jefferson's Manual,<sup>(24)</sup> a majority of a committee acting when together constitutes a quorum for business. A rule<sup>(25)</sup> further provides that no measure or recommendation shall be reported from any committee unless a majority of the committee was actually present. Because of this provision, a point of order that a quorum was not present when a committee reported a measure, if

23. Sam Rayburn (Tex.).

24. *House Rules and Manual* §§ 407, 409 (1979). See supplements to this edition for discussion of Rule XI clause 2(h)(2) adopted in the 95th Congress for recent rule permitting committees to adopt a rule designating one-third of the members as a quorum for certain preliminary business.

25. Rule XI clause 2(1)(2)(A), *House Rules and Manual* § 713(c) (1979).